

Appl. No. 09/812,376
Atty. Docket No. 8480
Amdt. dated May 18, 2004
Reply to Office Action of February 25, 2004
Customer No. 27752

REMARKS

Claims 1 - 20 are pending in the present application. No additional claims fee is believed to be due. Claims 1, 5-11 and 17 have been amended per this response to more distinctly claim the subject matter which applicant regards as the invention. Claim 10 has also been amended to correct antecedent basis. None of the changes involve the introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC 112, First Paragraph

The Office Action states Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action asserts the claims are replete with numerous instances of claim language whose meaning is uncertain, in terms of how the structure of the invention is defined. Examples of such language include "interior designs reflecting characteristics" (claim 1), "particular type of consumer" (claim 1), "fulfilling the needs of the particular type of consumer" (claim 1), "multipurpose customer interaction center" (claims 1, 11 and 17), "interior designs reflecting characteristics of a particular type of consumer" (claim 1), "area where customers can socialize" (claims 2, 13 and 18), "activity area for children" (claim 2), "public speaking accommodations" (claims 2 and 18), "educational materials" (claims 3, 5 and 19), "scheduling features" (claims 3 and 19), "informative marketing materials" (claims 4 and 18), "topics of interest" (claim 4), "highlight center" (claim 5), "seasonal and promotional products" (claim 5), "attuned with the particular type of consumer's diet" (claim 6), and "interior designs suitable for" (claim 11).

Attorney for Applicant respectfully traverses this rejection for the following reasons. First, claims 1, 5-11 and 17 have been amended per this response to more distinctly claim each of the centers of the specialized merchandising system as being within the partitioned section. Second, per MPEP 1504.04 "[T]he definiteness of claim language employed must be analyzed – not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art." *In re Moore*, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971).

Each of the claim terms identified in the office action as having uncertain meanings are adequately defined and explained in the specification as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. For instance, page 3, lines 16-17, describes retail establishment as

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"Potential retail establishments harboring such a specialized merchandising system include grocery stores, department stores, supermarkets, superstores, and wholesale clubs."

Page 3, lines 11-19 of the disclosure describes a particular type of consumer as

"an intended consumer who may be characterized according to age, gender, race, or personal interest such as pets, sports, automotive, gardening and the like."

Page 4, lines 10-14 of the disclosure describes the specialized merchandizing system as follows:

"The specialized merchandising system generally comprises a partitioned section within the retail establishment creating a selected area constructed with interior designs and colors that are suitable for the intended consumer. The partitioned section may be separated from other areas of the retail establishments by specific display arrangements, curtains, drapes, dropped ceilings, and/or canopies. "

In addition, "the multipurpose consumer interaction center" is defined on page 3, lines 24-30, as

"an area within the merchandising system providing access to information and services accommodating the intended consumer."

Further, page 4, lines 13-19, suggest the location for the "multipurpose customer interaction center" and other centers forming the specialized merchandising system.

"The partitioned section can be divided into centers offering specific products and services for the intended consumer. For instance, the multipurpose customer interaction center 20, described above, may be located near the middle of the partitioned area surrounded by a nutrition center 40 displaying nutritional food products, an equipment center 50 displaying furnishings, a personal hygiene center 60 displaying personal care products, a clothing center offering the latest fashions, and/or a highlight center 70 displaying seasonal and promotional products."

The other items pointed out in the office action as having uncertain meanings are also described in the specification as they would be interpreted by one possessing the ordinary level of skill in the pertinent art. Consequently, for the foregoing reasons, Attorney for the Applicant submits that claims 1-20 of the applicant's invention comply with the requirements of 35 U.S.C. 112, second paragraph.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C 112, second paragraph. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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